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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/854,325	05/12/2001	Nemo Semret	61624-04980	7653

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EXAMINER	
NGUYEN, NGA B	

ART UNIT	PAPER NUMBER
3692	

DATE MAILED: 11/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/854,325	SEMRET ET AL.	
	Examiner	Art Unit	
	Nga B. Nguyen	3692	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *29 August 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *45,47,48,51,52,54-60,62-66 and 68-76* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *45,47,48,51,52,54-60,62-66 and 68-76* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This Office Action is the answer to the Amendment filed on August 29, 2006, which paper has been placed of record in the file.

2. Claims 45, 47, 48, 51, 52, 54-60, 62-66 and 68-76 are pending in this application.

Response to Arguments/Amendment

3. Applicant's arguments with respect to claims 45, 47, 48, 51, 52, 54-60, 62-66 and 68-76 have been considered but are moot in view of the new grounds of rejection.

4. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 45, 47, 48, 51, 52, 54, 58-60, 62-66 and 68-76 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huberman, U.S. Patent No. 5,826,244, in view of Feezell et al (hereinafter Feezell), U.S. Patent No. 6,253,189, and further in view of Rackson et al (hereinafter Rackson), U.S. Patent No. 6,415,270.

Regarding to claims 45 and 47, Huberman discloses a method to allocate a product to a buyer agent operating on a buyer server, the method including employing a computer system configured by a resource agent program as a resource agent (see figure 2, broker process 230) to:

receive a first bid from a computer system configured by a first agent program as a first buyer agent (figure 2, supplier processes 220a, 220b, 220c; column 10, lines 22-35, broker process 230 accepts bids from supplier processes 220), and

transmit a notification message regarding a second bid to the first buyer agent the second bid having been received from a computer system configured by a second agent program as a second buyer agent (column 10, lines 38-41, information is available to bidders about each other's bids during the bidding);

determine an auction-termination time in accordance to an allocation rule (column 11, lines 15-20, broker process 230 continues to accept bids until the auction ends after a certain time interval has elapsed);

receive an updated bid from the first buyer agent in response to the notification message, the updated bid having been received before expiration of the auction-termination time (column 10, line 62-column 11, line 15, the supplier processes 220 bid automatically without human intervention, e.g. supplier process 220a generates and sends to broker process 230 a bid for $100, if the same supplier has authorized provision for a lower price of $80 at a point later, and the auction rules permit a series of bids by a single bidder, supplier process 220a can at that point generate and send to broker process 230 another bid for $80), and

allocate the product among said buyer agents in accordance with the bids and the allocation rule (column 11, lines 50, broker process 230 selects a winning bid or a set of one or more potential winning bids),

wherein the bids submitted by the buyer agents are computed, independently of a user's input, in accordance with a valuation rule and/ or a strategy rule received from the user (column 10, line 62-column 11, line 15, the supplier processes 220 bid automatically without human intervention, e.g. supplier process 220a generates and sends to broker process 230 a bid for $100, if the same supplier has authorized provision for a lower price of $80 at a point later, and the auction rules permit a series of bids by a single bidder, supplier process 220a can at that point generate and send to broker process 230 another bid for $80) ,

and wherein the buyer agent programs are such that a computer different from the one configured as the first buyer agent can be configured as the second buyer agent (see figure 2, supplier process 220a, 220b, 220c; column 9, lines 30-40, e.g. supplier process 220a is on a computer or workstation at the real-world supplier's site; column 9, lines 62-65, different supplier processes 220, each acting on behalf of a real-world supplier, an compete by bidding against each other in the auction).

Huberman does not disclose the product is network resource includes at least one of: a bandwidth, a buffer space, and a processing time. However, Feezell discloses the product is network resource includes at least one of: a bandwidth, a buffer space, and a processing time (see abstract, advertising time slot is equivalent to processing time). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify Huberman's to replace the Huberman's product by the network resource, for the purpose of providing an economical, fair and efficient marketplace for carrying out network resource transactions.

Moreover, Huberman does not disclose wherein the allocation is such that in at least some circumstances the network resource is allocated to both said buyer agents in response to the bids. However, Rackson discloses wherein the allocation is such that in at least some circumstances the items are allocated to both said buyer agents in response to the bids (figures 7-9 and column 21, lines 37-50, sharing products among plurality of bidders). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify Huberman's to adopt the teaching

of Rackson above, for the purpose of providing a fair and efficient allocation of network resource among a plurality of bidders.

Regarding to claim 48, Huberman further discloses the first buyer agent is associated with the user; and the first buyer agent operates on a buyer server located remotely from a computer associated with the user (see figure 2, supplier process 220a, 220b, 220c; column 9, lines 30-40, e.g. supplier process 220a is on a computer or workstation at the real-world supplier's site; column 9, lines 62-65, different supplier processes 220, each acting on behalf of a real-world supplier, an compete by bidding against each other in the auction).

Regarding to claim 51, Huberman further discloses the bid is based on a truthful best reply strategy (column 11, lines 1-15).

Regarding to claim 52, Huberman does not disclose the bid is based on a measurement of the network resource. However, Feezell discloses the bid is based on a measurement of the network resource (column 5, lines 38-60). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify Huberman's to adopt the teaching of Feezell above for the purpose of enabling the buyer to make better informed bidding decisions.

Regarding to claim 54, Huberman further discloses the allocation rule includes one of: an English Auction allocation rule, a continuous bid-ask allocation rule, a progressive second price action allocation rule, and a hold option allocation rule (column 11, lines 25-65).

Regarding to claim 58, Huberman further discloses receiving a data message from a computer system configured by a seller agent program as a seller agent, the data message associating a product with an offer to sell (column 9, lines 27-30, customer process 210a can execute on a personal computer or workstation at the real-world customer's site; column 10, lines 22-25, broker process 230 receives the job request from customer process 210a). Huberman does not disclose the product is a network resource. However, Feezell discloses the product is network resource (see claim 1 above for more details).

Regarding to claim 59, Huberman further discloses transmitting a notification message to the first buyer agent, wherein the notification message is determined by using including at least one of: an available quantity of the network resource, an allocation of the network resource, a bid from the buyer agent, bid from a different buyer agent, an offer to sell from a computer system configured by a seller agent program as seller agent (column 10, lines 38-41, a bid from the second buyer agent).

Regarding to claim 60, Huberman further discloses wherein the notification message transmitted to the first buyer agent indicates that the second bid affects an expected allocation of the product (column 11, lines 5-15).

Regarding to claim 62, Huberman further discloses employing the resource agent to: receive a data message for reallocating an allocated product from the buyer agent to a different buyer agent, and based on the data message, reallocate the allocated product to the different buyer agent (column 11, line 1-15, broker process 230 continues accept bids from the bidders).

Regarding to claim 63, Huberman further discloses employing the resource agent to store information in a memory space, wherein the stored information comprises at least one of: an available quantity of a network resource, an allocation of a network resource, a bid form the first buyer agent, a bid from the second buyer agent and an offer to sell from a computer system configured by a seller agent program as a seller agent (column 10, lines 22-35, a bid form the first buyer agent, or a bid from the second buyer agent , or an offer to sell from a computer system configured by a seller agent program as a seller agent).

Regarding to claims 64 and 65, Huberman discloses a system to allocate a product, the system including:

a computer system (column 9, lines 30-40, e.g. supplier process 220a is on a computer or workstation at the real-world supplier's site); and

a first agent program for configuring the computer system into a first buyer agent (see figure 2, supplier process 220a, 220b, 220c; column 9, lines 30-40, e.g. supplier process 220a is on a computer or workstation at the real-world supplier's site; column 9, lines 62-65, different supplier processes 220, each acting on behalf of a real-world supplier, an compete by bidding against each other in the auction) that is capable of:

generating a bid for the product (column 10, lines 62-65, each of the supplier processes 220 can generate a bid or a series of bids));

transmitting the bid to a computer system configured by a resource agent program as a resource agent (column 10, lines 65-67, the supplier processes 220 communicate their respective bids via network to broker process 230);

receiving a notification message regarding a second bid for the product, second bid having been submitted by a computer system configured by a second agent program as a second buyer agent (column 10, lines 38-41, information is available to bidders about each other's bids during the bidding);

transmitting an updated bid in response to the second bid before the expiration of tan auction-termination time (column 10, line 62-column 11, line 15, the supplier processes 220 bid automatically without human intervention, e.g. supplier process 220a generates and sends to broker process 230 a bid for $100, if the same supplier has authorized provision for a lower price of $80 at a point later, and the auction rules permit a series of bids by a single bidder, supplier process 220a can at that point generate and send to broker process 230 another bid for $80); and

receiving an allocation of the product among said buyer agents in accordance with the bids and the allocation rule (column 11, lines 50, broker process 230 selects a winning bid or a set of one or more potential winning bids),

wherein the bids submitted by the buyer agents are computed, independently of a user's input, in accordance with a valuation rule and/ or a strategy rule received from the user (column 10, line 62-column 11, line 15, the supplier processes 220 bid automatically without human intervention, e.g. supplier process 220a generates and sends to broker process 230 a bid for $100, if the same supplier has authorized provision for a lower price of $80 at a point later, and the auction rules permit a series of bids by a single bidder, supplier process 220a can at that point generate and send to broker process 230 another bid for $80) ,

and wherein the buyer agent programs are such that a computer different from the one configured as the first buyer agent can be configured as the second buyer agent (see figure 2, supplier process 220a, 220b, 220c; column 9, lines 30-40, e.g. supplier process 220a is on a computer or workstation at the real-world supplier's site; column 9, lines 62-65, different supplier processes 220, each acting on behalf of a real-world supplier, an compete by bidding against each other in the auction).

Huberman does not disclose the product is network resource includes at least one of: a bandwidth, a buffer space, and a processing time. However, Feezell discloses the product is network resource includes at least one of: a bandwidth, a buffer space, and a processing time (see abstract, advertising time slot is equivalent to processing time). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify Huberman's to replace the Huberman's product by the network resource, for the purpose of providing an economical, fair and efficient marketplace for carrying out network resource transactions.

Moreover, Huberman does not disclose wherein the allocation is such that in at least some circumstances the network resource is allocated to both said buyer agents in response to the bids. However, Rackson discloses wherein the allocation is such that in at least some circumstances the items are allocated to both said buyer agents in response to the bids (figures 7-9 and column 21, lines 37-50, sharing products among plurality of bidders). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify Huberman's to adopt the teaching

of Rackson above, for the purpose of providing a fair and efficient allocation of network resource among a plurality of bidders.

Regarding to claim 66, Huberman further discloses the first buyer agent is capable of generating the bid for the product based on at least one of: data received from the user associated with the buyer agent, a buyer allocation rule for determining an allocation of the product, a buyer valuation rule for determining a value of the product, and a buyer strategy rule for determining a bid for the product based on the buyer allocation rule and the buyer valuation rule (column 11, lines 1-15, a buyer allocation rule for determining an allocation of the product).

Regarding to claims 68 and 69, Huberman further discloses:

receiving from the at least one buyer agent a corresponding data message, the corresponding data message associating a bid with the product (column 11, lines 15-20, broker process 230 continues to accept bids from the bidders), and

allocating the product among the at least one buyer agent in accordance with an allocation rule such that there is at least some combination of bids in respect of which the allocation rule divides the product more than on buyer agent (column 11, lines 25-65).

Huberman does not disclose the product is network resource includes at least one of: a bandwidth, a buffer space, and a processing time. However, Feezell discloses the product is network resource includes at least one of: a bandwidth, a buffer space, and a processing time (see abstract, advertising time slot is equivalent to processing time). Therefore, it would have been obvious to one with ordinary skill in the art at the

time the invention was made to modify Huberman's to replace the Huberman's product by the network resource, for the purpose of providing an economical, fair and efficient marketplace for carrying out network resource transactions.

Regarding to claim 70, Huberman further discloses each corresponding bid is based on at least one of: a buyer allocation rule for determining an allocation of a network resource; a buyer valuation rule for determining a value of the network resource, and a buyer strategy rule for determining a bid for a network resource based on the buyer allocation rule and the buyer valuation rule (column 11, lines 1-15, a buyer allocation rule for determining an allocation of the product).

Regarding to claim 71, Huberman further discloses the allocation rule includes one of: an English Auction allocation rule, a continuous bid-ask allocation rule, a progressive second price action allocation rule, and a hold option allocation rule (column 11, lines 25-65).

Regarding to claim 72, Huberman further discloses the buyer agents are capable of being moved by the user from one computer system to another computer system (see figure 2, supplier process 220a, 220b, 220c; column 9, lines 30-40, e.g. supplier process 220a is on a computer or workstation at the real-world supplier's site; column 9, lines 62-65, different supplier processes 220, each acting on behalf of a real-world supplier, an compete by bidding against each other in the auction).

Regarding to claims 73-75, Huberman does not discloses the network resource is infinitely divisible, the network resource is arbitrarily divisible, the valuation rule is capable of determine a value of a quantity of the network resource, wherein the network

resource is divided into an infinite number of quantities However, such network resources and the valuation rule for the network resources are well known in the art. Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify Huberman's to replace the Huberman's product by the different network resources, for the purpose of providing an economical, fair and efficient marketplace for carrying out different network resources transactions.

Claim 76 contain similar limitations found in claim 45 above, therefore, is rejected by the same rationale.

7. Claims 55-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huberman, U.S. Patent No. 5,826,244, in view of Feezell et al (hereinafter Feezell), U.S. Patent No. 6,253,189, further in view of Rackson et al (hereinafter Rackson), U.S. Patent No. 6,415,270, and further in view of Roth, U.S. Patent No. 6,285,987.

Regarding to claims 55 and 57, Huberman, Feezell and Rackson do not disclose allocating includes: generating at least one command based on a resource control protocol for allocating the network resource and generating at least one command for at least one device for controlling the network resource. However, Roth discloses allocating includes: generating at least one command based on a resource control protocol for allocating the network resource (column 8, lines 15-20; Internet Protocol), generating at least one command for at least one device for controlling the network resource (column 4, lines 42-43; the advertising web server system 16 sends the appropriate advertisement from database 16A to the browser 11). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was

made to modify Huberman's modified by Feezell and Rackson to adopt the teaching of Roth above, for the purpose of enabling the allocation of network resource.

Regarding to claim 56, Huberman, Feezell, Rackson and Roth do not disclose allocating includes generating at least one command based on one of SNMP and COPS for allocating the network resource. However, generating at least one command based on one of Simple Network Management Protocol (SNMP) and Common Open Policy Service Protocol (COPS) for allocating the network resource is well known in the art. Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify Huberman's modified by Feezell's, Rackson's and Roth's above to adopt the well known feature above for the purpose of allocating the network resource using various different protocols.

Conclusion

8. Claims 45, 47, 48, 51, 52, 54-60, 62-66 and 68-76 are rejected.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Nga B. Nguyen whose telephone number is (571) 272-6796. The examiner can normally be reached on Monday-Thursday from 9:00AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard E. Chilcot can be reached on (571) 272-6777.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571)272-3600.

10. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

C/o Technology Center 3600

Washington, DC 20231

Or faxed to:

(571) 273-8300 (for formal communication intended for entry),

or

(571) 273-0325 (for informal or draft communication, please label "PROPOSED" or "DRAFT").

Hand-delivered responses should be brought to Knox Building, 501 Dulany Street, Alexandria, VA, First Floor (Receptionist).

NGA NGUYEN
PRIMARY EXAMINER

November 7, 2006